

ANTIDUMPING AND UNDERVALUATION

Hearings
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HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

JULY 16, 1919



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COMMITTEE ON WAYS AND MEANS.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS, FIRST SESSION.

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ANTIDUMPING AND UNDERVALUATION.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Wednesday, July 16, 1919.

The committee this day met, Hon. Joseph W. Fordney (chairman) presiding.

The CHAIRMAN. Mr. Burgess, we will hear you now.

STATEMENT OF MR. WILLIAM BURGESS, REPRESENTING THE UNITED STATES POTTERS' ASSOCIATION.

MR. BURGESS. Mr. Chairman and gentlemen, the question of antidumping and undervaluation is a matter that I want to speak of today. I do not know so much about what is technically antidumping or dumping in this country as I do about valuation, and it is a hard matter sometimes to draw the distinction between dumping and undervaluation, because the effect is the same. As far as I know, there are few instances, like in the dye industry, where a foreign industry has deliberately gone to work to ruin an American industry by undervaluing their goods and dumping at a lower price than the home market value. It seems to me, and always has seemed, that our law, if executed, was sufficient to prevent that kind of thing; but we have such an amount of red tape connected with the proving of these irregularities, and the burden of proof being entirely upon the Government to prove the values of the entered invoices, it seems to me the whole process should be changed; that is, the whole method of administering the laws should be changed. The burden of proof should be entirely upon the foreigner or the importer.

MR. YOUNG. Is the valuation and the sale price the same thing?

MR. BURGESS. The law now provides that the duties shall be collected at the usual wholesale price at which foreign goods are sold to all customers in the country of production.

MR. MOORE. And at our customhouses we accept the foreign price.

MR. BURGESS. The foreign invoice price.

MR. MOORE. Our duties are based upon that.

MR. BURGESS. Yes.

MR. MOORE. And you would advocate a change so that the valuation would be fixed in the United States?

MR. BURGESS. That would be a very desirable change.

MR. MOORE. The reason for that being that the opportunities for manipulation of prices on the other side are much greater than here?

MR. BURGESS. Yes; and it is very much more difficult to ascertain the facts.

MR. YOUNG. If undervaluation and dumping are practically synonymous—

MR. BURGESS. In the result they are the same.

MR. YOUNG. You say there is a certain valuation placed on the goods. If invoiced for the same amount, that would hardly be true, would it?

MR. BURGESS. I do not just catch that.

MR. YOUNG. I am trying to get at that proposition, as to whether undervaluation and dumping have the same result?

MR. BURGESS. Yes.

Mr. YOUNG. If the invoice is the same amount as the undervaluation, of course that would be the same as dumping; but if the invoice is made for one thing and it is undervalued simply for purposes of reducing the duty, that would be another thing?

Mr. BURGESS. The invoice in that case would show the undervaluation, provided we could prove the real market value.

Mr. YOUNG. What is the usual custom; are valuation and the invoice the same?

Mr. BURGESS. In the great majority of cases it is passed through that way. The goods are invoiced from abroad at a given figure; they are entered at the customhouse, say, at New York at that figure. If the examiner of that particular line of good does not believe that there has been any undervaluation; in other words, if he considers that invoice correct, it is passed and the duty is paid on that. If, however, they question it, the advance is made according to the best knowledge of the examiner. The importer almost invariably takes an appeal to the Board of General Appraisers. One general appraiser then hears the case, and in many cases the examiner has no special evidence to back up his statement, and the case goes by default.

Mr. GARNER. Is there not a remedy for that; do you not have to have these invoices visé by the American consul in the country from which they come?

Mr. BURGESS. Yes, sir; but that does not amount to anything.

Mr. GARNER. Suppose a consul should decline to O. K. that invoice at that price?

Mr. BURGESS. He has no authority not to O. K. that price without the permission or direction of the State Department, through the Treasury Department.

Mr. GARNER. If I am a consul in Germany and you are Secretary of States and you give me instructions as Secretary of State to withhold my visé from any invoices until they are fair and I execute your orders, would not that protect the American Government with reference to those goods?

Mr. BURGESS. It should.

Mr. GARNER. Why it is not done?

Mr. BURGESS. For diplomatic reasons.

Mr. GARNER. There is in the law the protection, if it will only be exercised. As Mr. Kitchin suggests to me, you may have the books examined, or go into other conditions desired, before you visé that invoice. If the State Department is not performing its duties in that direction you ought to call that to the attention of Congress, and Congress ought to investigate it; but the whole question of invoices is still with the executive branch of the Government, and the protection can be had under the present law.

Mr. YOUNG. He says that for diplomatic reasons they can not do it.

Mr. GARNER. How do you know that can not be done for diplomatic reasons?

Mr. BURGESS. I will give an illustration. The value of French china was questioned. A dinner set sold by Wanamaker & Co. at retail was traced back by me through the custom house. It was sold to the jobber at \$18.50. It was entered through the custom house at \$5.77, and the duty paid on \$5.77 was a 60-per-cent duty, making about \$3.50. That showed on the face of it, by simple mathematics, that the largest jobber in this country was paying a price giving

this importer a 114 per cent net profit. I took up the matter with the Treasury Department. They asked me to make an investigation. It is a long story, but the substance of it is that we found those goods were being sold in France for about \$11. That was the home market value. They were undervalued, therefore, almost one-half, coming into this country at \$5.77. We also discovered that no outsider, outside of a certain group, could buy any goods in Limoges, France, the China center. You had to buy them duty paid through their American agents.

A commission was appointed to investigate and get at the books as Mr. Kitchin has suggested. There were over there in the neighborhood of four or five months.

Mr. TRENOWAY. They were appointed through the Treasury Department.

Mr. BURNS. Appointed by the Treasury; consisting of one of the ablest examiners at the port of Chicago; the special counsel associated with the Assistant Attorney General in charge of customs, and the most expert Government confidential agent in Europe. I was asked to accompany them as adviser, which I did. When this became known, the New York French Importing Association appointed three of their members to go to France. They also directed that their attorney, who was a prominent man in New York, should accompany them. He went to France. When the commission got to Limoges they found that the chamber of commerce, which is more than our chamber of commerce here, being a semipolitical organization, a part of the Government, had made all arrangements for the commission, had the rooms selected, and had an interpreter and a stenographer, and everything for their comfort to facilitate their work.

The commissioners anticipated that somewhat, and secured an interpreter and stenographer in one person in this case, in Paris, who went down to Limoges. Knowing the general situation, they declined the hospitality of the Limoges Chamber of Commerce, and said they would rather conduct their investigations independently. They took rooms in the Hotel Continentale in Limoges. Very shortly they became aware of the fact that they were being followed, shadowed. It turned out that there were two male detectives and two female detectives on their track, watching every move they made, night and day. The concierge at the hotel was instructed, and attempted to be bribed, to intercept all the mail going to and coming from the commission. The commission also anticipated that, and it is my own opinion that their "ante" was a little higher than the Limoges fellows' "ante," but the result was that the manufacturers were instructed not to answer any question that the commission put to them, or show them their books unless the New York attorney was present to tell them whether they should answer or should not answer. They naturally took a great deal of time to get very much information.

There was one concern which was doing an independent business, Marshall Field & Co. of Chicago. Marshall Field were interested in having the duties properly assessed, because they were dealing with unfair competition through these importers, in this country, buying direct. They found that they were paying 35 per cent higher prices and paying duty on 35 per cent higher prices than this group of New York importers who were entering their goods and paying

their duty, and under the provisions of the law they had to buy at the market value. There was what was known as a 1908 rate list, which established fixed values, that was very arbitrary and a gross undervaluation over the prices that the law contemplated; that is, the home market values.

We came home. Investigation was then made in this country in a way that could not be made in the old country, because we had some jurisdiction over the men here. Accountants were appointed to investigate the books. They started in to make these investigations, and in one case they found that over a given time an importer sent over 140,000 francs more than the invoices called for covering the same period of time, which very plainly indicated the undervaluation of those goods to that extent.

Another concern was being examined. The head of the accounting firm became suspicious at once and told the chairman of the commission to be very careful not to let any paper go unnoticed, no matter how unpromising it might be, because he said these books had been rewritten and rebound recently in the old covers. This chairman of the commission saw, among other things, an old letter press copy that had been used by a predecessor of this concern. The book he took down, not imagining there was anything in it, because the leaves were yellow; but as he turned over to the end, at the end of the book he found a few pages that had not been used, and the fresh black ink attracted his attention. He commenced to read the letter. He saw it was of a recent date, and in it this New York importer was instructing their French representatives, their French firm, how to fool the commission, and how to mislead them, and gave them explicit instructions.

While this was going on the proprietor came up and noticed that he had been discovered in that very important bit of evidence and he reached over to tear the page out of the book, but the chairman of the commission took hold of his wrist and said: "This is the United States Government you are treating with now, and you leave it alone." He left it alone and took his hat and went out, and the next day he was found a suicide. He could not stand the exposure of being discovered.

Another concern, a large concern in New York, was performing the same kind of undervaluation which amounted to dumping. Indictments were gotten out against the New York representatives, and the head of the concern was then in Paris, but his arrest was not made at the request of the attorney in charge, who said he would deliver the man when it was necessary; but instead of that he slipped out through Canada and back to his own country, which was Germany in this case.

Mr. KITCHIN. When was this?

Mr. BURGESS. This was four or five years ago, a little before the war; some time ago.

Mr. KITCHIN. A few years before the war?

Mr. BURGESS. Yes.

Mr. KITCHIN. Oh, well, the law is better enforced now than it was then. That was under Mr. Taft's administration [laughter].

The CHAIRMAN. That is a joke, Mr. Burgess [laughter].

Mr. BURGESS. I would like very much to believe that.

Mr. KITCHIN. I knew from what you said that it was under the old tariff act, before these provisions had been in force and enforced;

and that very case was one of the reasons why we tried to make more stringent laws as to valuation in foreign countries.

Mr. MOORE. The law must have been effective if the man committed suicide.

The CHAIRMAN. In answer to the question by Mr. Kitchin I want to say—

Mr. KITCHIN. I stated a fact.

The CHAIRMAN. I want to state a fact. They amended the law so as to put these goods on the ad valorem basis instead of on the specific basis, and therefore offered a premium for fraud.

Mr. KITCHIN. You can not cite any case similar to this that has taken place since then.

Mr. GARNER. You gentlemen are talking politics, and I am trying to get information.

Mr. KITCHIN. I resent that. [Laughter.] I do not believe that when a fellow states a fact he is talking politics.

Mr. GARNER. I asked the gentleman a question and he started out to give an illustration as to why it was that American consuls in France and Germany and other countries could not exercise their discretion as to rising invoices below the value that they knew should have been given, and Mr. Burgess said that the answer was that they could not help themselves for diplomatic reasons, and yet he has not touched the diplomatic phase of the matter up to this time. I just want to call your attention, now, Mr. Burgess, to the fact that you have never gotten back to the point that I wanted you to answer, the reason why our consuls could not do that.

Mr. BURGESS. I can give you in this connection one diplomatic reason. This Limoges investigation resulted in a bringing of 16 suits, criminal suits and forfeiture suits also. The French Government—of course, the manufacturers on the other side were very much incensed over these suits and they went to headquarters—the French Government took the matter up and went to see the American ambassador to protest against such a procedure. The ambassador took the matter up with this country and did not make very much progress. Then the House of Deputies took it up in earnest. They said, "You are going to have a Panama Exposition, and we do not propose to back up an industrial proposition of that kind with any exhibits from France as long as you are treating us unfairly and unjustly in this way, and we will not make any appropriation for that Panama Exposition unless those French china suits are withdrawn. The administration changed about that time.

The CHAIRMAN. When was that?

Mr. BURGESS. That was a little after President Wilson came in office, I think.

Mr. MOORE. Then we were showing a little bit of the spirit of world democracy.

Mr. BURGESS. Yes; but the administrative law is not changed—

Mr. MOORE. I mean in championing the withdrawal of those suits they were showing the universal spirit of brotherhood. [Laughter.]

Mr. KITCHIN. When were the suits brought?

Mr. BURGESS. The suits, I suppose, were brought at the close of the Taft administration.

Mr. KITCHIN. How do you know this conversation took place between this Government and the French Government with respect to the Panama Exposition?

Mr. BURGESS. In various ways, through newspaper information and from a conference I had with Ambassador Herrick, who came home.

Mr. KITCHIN. The newspapers would not be very much evidence [Laughter.]

Mr. BURGESS. But that was newspaper talk; it was common knowledge. The result of their protests was that the Attorney General, who was Mr. McReynolds at that time, found that there was a technical question which would enable him to withdraw six of the suits. So six suits were withdrawn, and the appropriation was made, and the Panama Exposition went on.

The CHAIRMAN. How much was that appropriation?

Mr. BURGESS. \$400,000, I believe; that is my recollection.

The CHAIRMAN. So the suits were really sold out for \$400,000?

Mr. BURGESS. Those particular suits.

Mr. KITCHIN. He says Mr. Herrick did it.

The CHAIRMAN. But it was an easy way to get the money, whether it was a Republican or a Democrat who did it.

Mr. GARNER. Let us see what the real effect of your argument is. It is this, if I understand it, that if the French merchant or the German merchant undertakes to undervalue his goods, and the American consul is cognizant of that fact, if the American consul undertakes to exercise his discretion in the premises the diplomats of those countries will bring pressure to bear on this country in order to force this country to agree to something that the law does not permit, to agree to a fraud and a misrepresentation. It may have happened in this particular instance you speak of, but I do not think the diplomacy existing between the various countries is such that when one country will—take it in one country where a question is based upon a misrepresentation, which is the question you speak of—one country will brow beat this country to such an extent that they will consent to the perpetuation of a fraud. I think if such a thing can happen the diplomacy is in very bad hands, and I am not willing to accede to the proposition.

Mr. MOORE. This country could not possibly be wheedled or brow-beaten under existing circumstances, could it?

Mr. GARNER. I am trying to get at the facts.

The CHAIRMAN. You do not allow Mr. Burgess to answer. Please answer the question, Mr. Burgess.

Mr. BURGESS. Take another case which involves diplomacy right in this same connection. The consul at Limoges was a French Canadian who became a citizen of the United States and lived in Massachusetts. He found the position in France was a very pleasant and congenial one. The commission suggested that he should get information for them while they were there. He did not want to get it. He wanted an excuse for not getting it, so he said that he did not have the right to make that request without directions from Washington and that he would find out what he should do. He went to Paris, talked with the consul general about the matter, and put his interpretation upon it, and sent word to the State Department asking whether he should comply with the request of the commission or not. The way it was stated, of course, brought a negative reply, and the commission were handicapped in their work by the act of the United States consul at that port.

Mr. GARNER. But there is a remedy for that, and that is to cut off the head of this consul.

Mr. BURGESS. Exactly.

Mr. GARNER. But you want to change the law. I want to know why it is necessary, if the present law is functioned, to change it, and I am trying to direct your attention to the fact that you have not yet shown us that if the State Department did its duty with its consuls in foreign countries as to invoices it would be necessary to change the law.

Mr. BURGESS. That is not the function of the consul—to find out the values of goods abroad.

Mr. GARNER. Let us get down to the crux of it. Your contention is that a consul in France is not required to make any inquiry as to whether or not the invoice is a correct one or not?

Mr. BURGESS. He does not feel that it is his obligation. In this particular case it would be a simple thing, because Limoges is a china center.

Mr. GARNER. You made a statement that I would like to have you confirm, and if you can confirm it it will lead very much toward my voting for this proposition. It will influence me very much in my vote with reference to a change in the law if you can confirm the statement you made that the State Department and the consuls do not consider it their duty to look into the question of the correctness of invoices.

Mr. BURGESS. I did not say that; I said they did not feel it their duty, nor was it their function, to find out the market value of those goods, which is involved in your question to an extent.

Mr. GARNER. If a man brings a package of goods for invoice, the consul simply accepts his statement and does not look into it?

Mr. BURGESS. Yes; in 99 cases out of 100, and in the large consulates it is a practical and physical impossibility for the consul to do it. There might be a thousand commodities coming through his office; he has not the time nor the money at his disposal. On several occasions I asked the consuls if they knew whether the prices that they were approving were correct, and they said, "No; we do not know, except as it comes through invoices from several different concerns, and if they are all about the same price we take it for granted that that is about the price." I said, "Why don't you investigate?" They said, "We have not the time nor the money, and we are not going to spend our own money for that kind of work."

Mr. GARNER. If you are Secretary of State and I am consul in France, and if Congress gives you the money and I am under your direction, do you not think I should ascertain the value of invoices in France as your consul?

Mr. BURGESS. Where there is a will there is a way.

Mr. GARNER. Exactly. Now, that is what I am coming to. You have got the law. Congress has given the State Department the appropriation they have asked for. I call attention to the fact that the plan for you to come is clearly not Congress; it is with the administration of the law, and your place is at the other end of the Avenue.

Mr. BURGESS. Does it not clearly mean that the consul is not the best of all by whom that work can be done? The consul is a man we are looking to to sell goods of the United States in foreign countries and a commercial agent of this country. He is supposed to be

the American agent to find new places for American goods. If he is doing that he can not be quarreling all the time with the country where he is. He has got to be our agent in selling our stuff, and that is enough for the consul from this country to do, and we do not want to put him in a position where he is going to quarrel with everybody in a foreign country; otherwise, how is he going to sell any goods over there?

The CHAIRMAN. If you will permit me, I think this is an appropriate place in your statement for me to make a statement to the committee, and I want it to go into the record to substantiate what the witness is saying. I have given this matter considerable thought. I have consulted with Mr. Burgess at times, and he came to see me shortly after he came back from Europe—when he was over there as a representative of the Government—so this has been in my mind for many years. I have in my room in the hotel, and I will bring it over here and have it put into the record so that the committee may see it—I wish I had it now—a statement made by Mr. Burgess, which contained a copy of a speech before the Berlin Chamber of Commerce.

Mr. BURGESS. I have a copy of it here, if you want it.

The CHAIRMAN. I should be very glad if you would put that in the record, because it will explain the matter better than I can.

(The article above referred to is copied in the record, in full, as follows:)

ADDRESS AT BERLIN CHAMBER OF COMMERCE.

(An address made at a large commercial gathering in Berlin, by the chairman, one of the largest and most reputable merchants in Germany. The address was made behind closed doors and afterwards was read before all the chambers of commerce within the realm.)

As a fact the United States is not dependent for its existence upon the collection of duties, and it can afford to allow the falling off of revenues in this direction for what they claim "the general good." From this standpoint it is clear that in the administration of the tariff is concealed the power and purpose to make the entry of certain competing articles as difficult as possible, and to carry this out the United States Government agents resorted to the meanest and smallest measures.

The first of these is the certification of the invoices by consular officers stationed in various districts of the Empire; second, the investigations by customs officials as to the correctness of the statements in the invoices which have not the force or effect of an oath in the German Empire; third, the reexamination in cases where there is reason to doubt values by agents of their Treasury Department; and, fourth, by the high penalties added for undervaluation. Naturally we all admit that an actual swindle is incorrect in any business transaction, but "undervaluation" should not be treated as such unless positively proved. However, no such elasticity is to be found in the minds of American customs officials, who treat "undervaluation," as they call it, as fraudulent, and they at once apply the usual penalties. Our goods have been exported to England and the United States at lower prices than those for the home market, and there have been more or less low values for the States, and in some cases what would be there termed "fraud," and such are the conditions at the present time.

"Market value," as defined under American law, is the wholesale price at the time of export, and our trouble lies in having two sets of prices, one for export and the other for home trade. We have to resort to a division of shipments under the so-called "\$100 clause" to keep our matters secret, save fees, and avoid control on that side.

Declarations in invoices compelling all sorts of statements as to how the goods were obtained, whether by purchase or otherwise, values in detail and charges of every character are the crowning point in the prying curiosity practiced under the American customs laws.

These things all lead to abuses, and we are promised that the means of gaining information through American consuls and agents will be shut off. Our

boards of trade are fully awake to the dangers that surround us, and in making every effort to close the doors against this abuse they are hoping for the whole support of the Government.

Experience has taught that the workings of tariff have not fulfilled the purpose for which it was created, but, on the contrary, the information gained under this regulation concerning costs of production has been so defective that in many cases it has been misleading because through the prudence of our officials we have taken care that investigation of this character shall throw little light upon the actual value of their consignments.

In many cases trouble has been avoided by having invoices consulsated remote from districts in which the goods are manufactured, but we must follow up this whole question as to the right of consular and other officers to pry into our business for the sole purpose of keeping out our merchandise, and in this we are assured of the official support of our Government. Such treatment on the part of American officials and the cause for it is plain, and now that concessions must be made by the American Government, if we stand together firmly as a body aided and supported by our board of trade, we can bring about a change that will be of untold benefit to our American export trade.

The CHAIRMAN. Now, those undervaluations are best explained here by underselling prices in this country, according to the statement made by the Attorney General, who was then the Alien Property Custodian. This is found in his report on the chemical foundation, beginning on page 10; and also will be found in his annual report, beginning on page 25, his last annual report, I think, dated in January. If the committee will bear with me a few minutes, I want to read it and have it go into the record, to show what the Alien Property Custodian said at that time about dumping goods in this country at prices far below what the goods were sold for in Germany. This ought to be extraordinarily good evidence. It comes from a Democrat, wholly unprejudiced so far as politics are concerned. Beginning at the top of that page he says:

The method under which this dumping policy was conducted and its extent may be illustrated by a few specific instances. Most of these occurred in branches of the chemical industry, other than the manufacture of dyes, for the simple and sufficient reason that in this country, at least, the dye-stuff industry never reached a point where it required much discouragement. When, however, in 1901, the first determined effort was made in this country to establish the manufacture of an important intermediate; when, that is to say, the Benzol Products Co. was organized by a group of men interested in the heavy chemical industry, to manufacture aniline oil on a large scale, the German hand was immediately seen.

The price of aniline oil at the time of the establishment of this company averaged 25 cents. As soon as its manufacture was fairly under way, the German exporters commenced to cut the price. Apparently, no definite prices were made by the Germans, but they adopted the simple policy of offering any customer of the new concern supplies at less than the price he was paying. For example, one of their most important customers refused an advantageous contract at 24 cents, stating that he had assurances from the Germans that whatever price the Benzol Products Co. made would be met and bettered by them. Accordingly, the new company struggled on, conducting its operations without profit, and only because it was supported by a group of men of exceptional determination and insight was it able to survive until the war gave it an opportunity to establish its business on a firm foundation. Among other examples are the following: In 1903 there were in the United States five manufacturers of salicylic acid. By 1913 three of these had failed. Of the two survivors, one was the Heyden Chemical Co., a mere branch of a German house, which, as such, I have since taken over. During the latter part of the decade mentioned, salicylic acid was selling in Germany at from 26½ to 30½ cents. During the same period the German houses were selling it in this country, after paying a duty of 5 cents, at 25 cents or from 6 to 10 cents below what they were getting at home.

A similar situation developed in the manufacture of oxalic acid. In 1901, when there was no American manufacture, it was sold by the Germans at 6 cents. In 1903, when the works of the American Acid & Alkali Co. were started, the price was immediately dropped to 4.7 cents, at about which figure

it remained until 1907, when the American factory was shut down for a number of months. During this shutdown period the price was instantly raised to 9 cents. When the factory reopened the price was again dropped until 1908, when the company failed. It was then reorganized and in 1909 secured the imposition of a 2-cent duty on the acid, from which time up to the beginning of the war the price ran at about $7\frac{1}{2}$ cents a pound. The same process was carried on in regard to bicarbonate of potash. In 1900 there was no American manufacture and imports ran about 160,000 pounds. In 1901 American manufacture began. This succeeded so well that in 1906 imports had dropped to 45,000 pounds. At this time the American manufacturer's price was $6\frac{1}{2}$ cents, while the import value was given at 4.9 cents. In the following year the Germans made a determined and successful onslaught. Their import value was lowered to 2.2 cents with a result that instead of 45,000 pounds 310,000 pounds were imported. Accordingly, in 1908, the American manufacturer failed. The price was immediately raised to $7\frac{1}{2}$ cents and remained thereabouts thereafter until the war. Many similar instances might be cited, but these sufficiently indicate the method and its results.

Mr. GARNER. May I ask a question? If the American consuls in Germany had refused to invoice these goods upon a basis other than the price at which the goods had been sold to the local people in Germany, they could not have been brought to this country?

The CHAIRMAN. Let me say to the gentleman in reply that the article which has been put in the record answers that. The German gentleman before the German Chamber of Commerce states that it is his very purpose to muddy the water, and he goes to places in Germany remote from the places where the goods are manufactured to obtain the approval of the Government consuls.

Mr. GARNER. If you had said to the American consul in Germany that he should decline to visé an invoice unless it was based upon the current price in Germany, they could not accomplish the very thing you have mentioned; you could not get that invoice viséd and therefore you could not get the goods into this country.

The CHAIRMAN. My firm conviction is, from what I have learned on this committee and from a study covering a good many years and from everything that I could gather in the way of information, that, as the witness has said, out of 100 cases 99 are undervaluations, and the American consuls do not know the values and can not obtain the values and must take such statements as the exporter gives as to the values. They will not let the consuls see their books, and they have no power to examine their books.

I have interrupted you, Mr. Burgess, but I thought that would be good information to give to the committee at this time. I will now ask you to proceed.

Mr. BURGESS. I want to add just a little bit to the question from the gentleman from Texas about the duties of the consul. I have occupied that position myself, so I know at first hand. They have not the right to refuse to certify an invoice. Their remedy is to notify the port of entry that the goods are undervalued, in their estimation. That is their remedy.

Mr. GARNER. Is that a law, or a rule or regulation of the department?

Mr. BURGESS. A regulation of the department.

Mr. GARNER. So I still come back to the proposition that, if that is a regulation of the department, and each consul was told to secure the current price in the country from which the goods were shipped, and if it developed that he continued to undervalue the goods, cut his head off, and get somebody that will attend to the business of the Government in that territory, and I say you have got a remedy.

MR. BURGESS. The difficulty is just what the chairman has said, that the foreign manufacturer refuses to open his books and to prove the cost.

MR. GARNER. It is not necessary for him to open his books, Mr. Burgess. For instance, you have got a German consul, we will say, in Washington. He can secure the current price of articles that are being sold here to the consumer, and he does not have to open the books of the manufacturer. He can get the current price.

MR. YOUNG. The wholesale price?

MR. GARNER. Certainly. A man in this country can ascertain the wholesale price of anything in this country, if he wants to.

MR. YOUNG. Do you know what it is in Washington?

MR. GARNER. No; but it is not my business to look into it, and I think that it is the consul's business to go and find out and ascertain the true situation. I say that you could obtain the current price of the articles in this country to be sold.

MR. BURGESS. It is easier to do that in this country than it is abroad.

MR. GARNER. I am not informed with regard to abroad.

MR. BURGESS. I know that from experience. Another personal experience will illustrate what I mean. The first investigation that I made was goods coming from Holland and from Germany at a price that was driving the business to the wall. As an example of what I mean, the English cup and saucer was being sold for 62 cents, and the American cup and saucer for 60 cents. These things came in at 50 cents below the cost of the goods. We tried through regular diplomatic channels, or, rather through the Treasury Department, to get information, and could not do it. It was not satisfactory, and the Secretary asked me to find out what I could. It was a long while before I could find anything on the other side. I finally got hold of the man through the consul general of Brussels, Mr. Roosevelt, a cousin of the President, and he introduced me to a commissionair, who was in the habit of buying goods and also had an establishment of his own, and he undertook to secure the price and to make purchases. I instructed him to make purchases to any degree that would get the lowest wholesale value. He got a lot of samples, and I got information that was desired. After I got home and the case was presented, I tried to keep it as quiet as I could, but it leaked out just through that channel this information was secured. Word was distributed throughout the factories of Europe to sell that man no more goods, and they did him up in business, wound him up. That is all a matter of record, and can be proved. That is how they guard their values whenever a customer is seeking information.

MR. CARRFIELD. How do the foreign governments make their valuations on goods shipped from this country to their countries?

MR. BURGESS. It is largely shipped by weight, not money. Here it is entirely on an ad valorem basis.

MR. CARRFIELD. They do not have ad valorem duties at all in Germany and France?

MR. BURGESS. Germany, as far as I know, and France, on those things that I have been interested in, have specific duties.

MR. CARRFIELD. Entirely?

MR. BURGESS. Yes; but in Canada they have the ad valorem duty, and I can give you a single illustration of how they take care of any undervaluation or dumping. There was a manufacturer in this country who was selling a commodity in this country for \$5. To

preserve his organization and keep it going through the dull season and slack trade he found that by selling the goods in Canada at cost, which was \$3, the bare factory cost, he could compete with the English goods of the same kind coming in under a preferential duty of 20 per cent. They made a shipment, which got to the border, either Toronto or Montreal, I do not recall which, and in a day or two after a gentleman appeared at this factory from Canada and asked to see their books, stating that he was interested in the American value, and he told who he was. They said, "We are not interested. We do not show our books to anybody." Well, he politely bowed himself out and said, "I will be at such and such a hotel, and if you should happen to want me you can get me within the next day or so."

The next day they received a telegram from their customer in Canada, saying that their goods were held up in the customhouse because the factory refused to give information. This factory sent down for the gentleman who was waiting quietly at the hotel for results, and asked him to come up and take a look at the books. He came up and found as he expected that the whole market value here was \$5, and they had been sent over there for \$3. He then stated, "Perhaps you are not acquainted with our law, and that this is in violation of the law, but this is the first offense, and we will give you an opportunity to reinvoice your goods at \$5 and pay 30 per cent duty, or you can pass them as they are at \$3 at 30 per cent duty, and we will tax you 50 per cent on the undervaluation, or the \$2." They very quickly reinvoyced their goods at \$5, and that wound up the business. They could not compete with the English goods. The result was that they went to Canada and started a factory there for the making of these goods for the Canadian market.

Mr. OLDFIELD. What you want is for our Government to enforce our laws in regard to valuation just as the Canadian Government enforces its laws?

Mr. BURGESS. Either cut the red tape so that it can be done, or establish some method by which this country has jurisdiction over getting the facts and the evidence. We have none now with these foreign values.

Mr. KITCHIN. Did the commission, of which you were a member, send over to France to examine these things, make a report to the Secretary of the Treasury?

Mr. BURGESS. Yes, sir; it is a very full and elaborate report, I think, covering a good many of the facts that I have stated.

Mr. YOUNG. Was that report printed?

Mr. BURGESS. It is in print. It was a kind of confidential report, but no doubt you can get it. It is entitled, "The Limoges Commission report on French China."

The CHAIRMAN. Mr. Burgess, if there are any statements you wish to make along the line of illustration like you have given the committee, that would aid the committee, which you wish to have go in the record, if you will prepare them and hand them to the clerk, we will be glad to have them printed, because it is very instructive and valuable information. We thank you very much.

Mr. MOORE. This is a matter of very great importance. It affects a change in the administration of the laws, and is one worthy of consideration.

Mr. BURGESS. We hope to bring that up later.